



STATE OF NEW JERSEY

FINAL ADMINISTRATIVE ACTION
OF THE
CIVIL SERVICE COMMISSION

In the Matter of Aisha Alvi and
Vincent Garbarino, Department of
Environmental Protection

Classification Appeals

CSC Docket Nos. 2014-2611 and
2014-2602

ISSUED: JUL 30 2014 (SLK)

Aisha Alvi and Vincent Garbarino appeal the attached decisions of the Division of Classification and Personnel Management (CPM) that the proper classification of their positions with the Department of Environmental Protection (DEP) is Environmental Specialist 3. The appellants seek a classification of Environmental Specialist 4. These appeals have been consolidated due to common issues presented.

The record in the present matter establishes that the appellants' permanent titles are Environmental Specialist 3. Ms. Alvi is assigned to Compliance and Enforcement, Division of Air and Hazardous Materials Enforcement, Bureau of Air Compliance and Enforcement Central and reports to Christopher Odgers, Manager 4, Environmental Protection. She directly supervises two Environmental Specialists 3, one Environmental Specialist 2, and one Environmental Engineer 3. Mr. Garbarino is assigned to Compliance and Enforcement, Division of Air and Hazardous Materials Enforcement, Bureau of Air Compliance and Enforcement Southern and reports to Richelle Wormley, Manager 4, Environmental Protection. He directly supervises two Environmental Specialists 3 and one Environmental Specialist 2. The appellants sought a reclassification of their positions, alleging that their duties are more closely aligned with the duties of an Environmental Specialist 4. In support of their requests, each appellant submitted a Position Classification Questionnaire (PCQ) detailing the different duties he or she performs as an Environmental Specialist 3. CPM reviewed and analyzed the PCQs completed by the appellants as well as other submitted information including organization charts, their Performance Assessment Reviews (PARs), their statements, and statements from their supervisors, division directors, and the

appointing authority. In its decision, CPM determined that the duties performed by the appellants were consistent with the definition and examples of work included in the job specification for Environmental Specialist 3.

On appeal, Ms. Alvi presents that CPM's finding that none of the four employees that she supervises function as lead workers or first line supervisors is inaccurate. On the contrary, she states that she supervises an Environmental Specialist 3 (ES3) and an Environmental Engineer 3 (EE3) whose responsibilities include first line supervision of lower level Environmental Specialist 2 (ES2) and Environmental Specialist Trainee (EST) staff. She highlights that the ES3s and EE3 perform individual work and train junior staff to ensure compliance with regulations, plans, policies, and procedures. Further, she maintains that the ES3s and EE3 also supervise projects besides being the lead worker for several cases. She indicates that she directly reports to the Manager and is responsible for field and office conduct of professional staff under her supervision. She represents that she works with the Manager to strategically plan and assign work tasks to primary level staff. She also is acting program Manager in the Manager's absence. She states that she works closely with the program inspectors and assigned Attorney Generals involving preparation for legal enforcement actions and she completes Performance Assessment Reviews (PARs). She also submits two separate organization charts demonstrating changes in her supervision responsibilities. Additionally, she claims that the Civil Service Commission (Commission) approved the classification of a position of someone in another office to Environmental Specialist 4 who was performing her exact same duties. Further, she provides letters from her Program Manager and Director who support her appeal.

On appeal, Mr. Garbarino presents that he supervises two ES3s and one ES2 and that the two ES3s are lead workers for the Dry Cleaner Initiative. He highlights that one of the ES3s, in addition to his ES3 duties, takes the lead on the Dry Cleaner Initiative by supervising the inspection of their facilities and providing training if necessary. The ES3 is also the lead worker for testing the NJEMS database. He also maintains that the other ES3, in addition to his ES3 duties, is also a lead worker for the Dry Cleaner Initiative for three counties and he performs similar duties as the other ES3. He represents that the ES2 ensures that OPRA requests are addressed timely, is the backup for the office support staff, and manages the office's Duty Officer Schedule. Mr. Garbarino provides that as a supervisor, he meets with various third-parties, has direct input on proposed rules and regulations, supervises the preparation of various reports, documents, correspondence, works with the Attorney General's Office, testifies in Court, and reviews PARs. As the Project Leader for the Statewide Fumigation Initiative, he states that he works with industry to help bring them into Air Pollution Regulation compliance and works with Pennsylvania DEP. Additionally, he provides that he works with boating manufacturers on environmental issues. He notes that he supervises the preparation of reports and enforcement documents and works on

enforcement matters. He highlights that he supervises his staff with regard to PARs and disciplinary issues, and signs off on timesheets and monthly cell phone bills for staff. He also submits a letter from his Manager who supports his appeal.

CONCLUSION

The definition section of the job specification Environmental Specialist 3 states:

Under the general supervision of a supervisory official in a State department or agency takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess environmental impacts and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work as required.

The definition section of the job specification for Environmental Specialist 4 states:

Under direction of a supervisory official in a State department or agency, supervises professional or non-professional staff as assigned, engaged in completion of environmental review and control tasks relative to assigned program/project areas; supervises and plans field studies, surveys, inspections or investigations relating to applications and associated Environmental Impact Statements; enforcement of environmental laws and/or regulations; prepares evidence for use in reviews and legal actions; supervises the processing of contract, grant and/or loan applications; does other related duties as required.

Ms. Alvi's primary duties are to supervise two Environmental Specialists 3s, one Environmental Specialist 2, and one Environmental Engineer 3 who are engaged in the investigation and enforcement of the Air Pollution Control Act, directing and organizing work plans associated with air pollution regulations, conducting training sessions, reviewing inspection and investigation reports, processing enforcement actions, conducting training, and attending meetings and conferences. Mr. Garbarino's primary duties are to supervise two ES3s and one ES2 who engage in the inspection of facilities and enforcement of air pollution regulations. In addition, he ensures the continuing compliance of a large and complex refinery, processes enforcement documents, reviews inspection reports, and maintains the Air Inspection Targeting database.

The Commission agrees with CPM's determination that the appellants' positions are properly classified as Environmental Specialist 3. The Environmental Specialist 4 title is classified as an "S" title, or second level supervisory title that directly supervises first level supervisors. Ms. Alvi indicates that she directly supervises two ES3s, one ES2, and one EE3, and Mr. Garbarino indicates that he supervises two ES3s and one ES2. However, there is no evidence that these employees are required to supervise subordinate staff. In this regard, the organizational charts do not indicate that any of the employees that the appellants supervise are acting as first-level supervisors or lead workers. Ms. Alvi states that, in addition to performing their individual tasks, the ES3s and EE3 that she supervises provide training, assignments, and are responsible for the work of junior staff. They both mention that their staffs manage certain programs and projects. However, an employee who is responsible for a program or project is not necessarily a lead worker. A leadership role refers to those persons whose titles are non-supervisory in nature, but are required to act as a leader of a group of employees in titles at the same or a lower level than themselves. Duties and responsibilities would include training, assigning and reviewing work of other employees on a regular and recurring basis, such that the lead worker has contact with other employees in an advisory position. However, such duties are considered non-supervisory since they do not include the responsibility for the preparation of performance evaluations. Being a lead worker does not mean that the work is performed by only one person, but involves mentoring others in work of the title series. *See In the Matter of Henry Li* (CSC, decided March 26, 2014). In this case, the appellants have not provided any evidence that any of the employees that they supervise have primary responsibility acting as lead workers over specific individuals on a daily basis. *See In the Matter of Michael Pigliacelli, Department of Environmental Protection* (CSC, decided November 7, 2013).

With respect to Ms. Alvi's assertion that she is performing the same duties of another employee who was classified as an Environmental Specialist 4, a classification appeal cannot be based solely on a comparison to the duties of another position, *especially if that position is misclassified*. *See In the Matter of Dennis Stover*, Docket No. A-5011-96T1 (App. Div. October 3, 1998), *affirming In the Matter of Dennis Stover, Middletown Township* (Commissioner of Personnel, decided February 20, 1997). *See also, In the Matter of Carol Maita, Department of Labor* (Commissioner of Personnel, decided March 16, 1995). Additionally, the fact that some of an employee's assigned duties may compare favorably with some examples of work found in a given job specification is not determinative for classification purposes, since, by nature, examples of work are utilized for illustrative purposes only. Further, it is not uncommon for an employee to perform some duties which are above or below the level of work which is ordinarily performed. For purposes of determining the appropriate level within a given class, and for overall job specification purposes, the definition portion of the job specification is appropriately utilized. The Environmental Specialist 3 title is classified as an "R", or primary

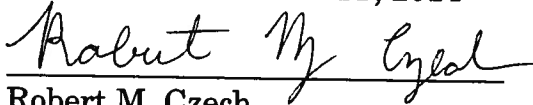
level supervisory title. As the appellants are directly supervising everyone in his or her area, their job duties are consistent with a classification of Environmental Specialist 3. However, it cannot be ignored that each of the appellants continue to supervise Environmental Specialists 3s. A supervisor and a subordinate cannot hold titles that are classified in the same employee relations group as it creates an inappropriate reporting relationship. *See In the Matter of Timothy Stewart* (CSC, decided February 26, 2014). In this case, the Environmental Specialist 3 title is classified as an "R," or primary level supervisory title. Therefore, the appointing authority is directed to correct these inappropriate reporting relationships by removing the responsibility of the appellants to supervise Environmental Specialist 3s.

ORDER

Therefore, the Civil Service Commission concludes that the positions of Aisha Alvi and Vincent Garbarino are properly classified as an Environmental Specialist 3.

This is the final administrative determination in this matter. Any further review is to be pursued in a judicial forum.

DECISION RENDERED BY THE
CIVIL SERVICE COMMISSION ON
THE 30th DAY OF JULY, 2014



Robert M. Czech
Chairperson
Civil Service Commission

Inquiries
and
Correspondence

Henry Maurer
Director
Division of Appeals
and Regulatory Affairs
Civil Service Commission
Written Record Appeals Unit
P.O. Box 312
Trenton, New Jersey 08625-0312

Attachments

c: Aisha Alvi
Deni Gaskill
Kenneth Connolly
Joseph Gambino



CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Division of Classification and Personnel Management
P. O. Box 313
Trenton, New Jersey 08625-0313

ROBERT M. CZECH
Chair Chief Executive Officer

April 8, 2014

Ms. Aisha Alvi
7 Parker Boulevard
Eastampton, New Jersey 08060

Re: Classification Appeal; Environmental Specialist 3; Position #083990;
CPM #07130222 Employee ID #000342557

Dear Ms. Alvi:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above.

Your position is currently classified as an Environmental Specialist 3 (R25-15854). You contend that you are performing duties commensurate with the title Environmental Specialist 4 (S28-15855). Your position is located in Compliance and Enforcement, Division of Air and Hazardous Materials Enforcement, Bureau of Air Compliance and Enforcement-Central. You are supervised by Christopher Odgers, Manager 4, EP (M32-64994C) and you directly supervise two Environmental Specialists 3, one Environmental Specialist 2, and one Environmental Engineer 3.

You are responsible for supervising staff engaged in the investigation and enforcement of the Air Pollution Control Act, directing and organizing work plans associated with air pollution regulations, conducting training sessions, reviewing filed inspection and investigation reports, processing enforcement actions, conducting training, and attending meetings and conferences.

Our review involved a detailed analysis of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority.

The definition section of the class specification for your current title, Environmental Specialist 3, (R25, 15854), states:

"Under the general supervision of a supervisory official in a state department or agency takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess Environmental impacts and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work as required."

An Environmental Specialist 3 provides technical guidance to assigned employees and may evaluate employee performance in ensuring environmental standards are being met. Incumbents in this title gather technical or scientific data to assist in the assessment of social impact. Incumbents evaluate data determining the extent of impacts to ecosystems, and recommend techniques to mitigate those impacts. An Environmental Specialist 3 may plan, organize, and assign the work of the organizational unit and evaluate employee performance and conduct. An Environmental Specialist 3 is considered the primary or first level of supervision and as such, must function as a supervisor or lead worker. A supervisor or lead worker must oversee other permanent professional staff performing environmental specialist work and includes assigning and reviewing work on a regular and recurring basis.

The definition section of the class specification for the title, Environmental Specialist 4 (S28, 15855), states:

"Under direction of a supervisory official in a state department or agency, supervises professional or non-professional staff as assigned, engaged in completion of environmental review and control tasks relative to assigned program/project areas; supervises and plans field studies, surveys, inspections or investigations relating to applications and associated Environmental Impact Statements; enforcement of environmental laws and/or regulations; prepares evidence for use in reviews and legal actions; supervises the processing of contract, grant and/or loan applications; does other related duties as required."

An Environmental Specialist 4 is expected to supervise and plan field surveys, enforcement activities, work operations, and/or functional programs. Incumbents in this title draft technical and other correspondence in the course of official duties. An Environmental Specialist 4 supervises the preparation of clear, technically

sound, accurate, and factual reports containing findings, conclusions, and recommendations.

An Environmental Specialist 4 is considered a second-level supervisor and is expected to directly supervise professional staff functioning as first-level supervisors. While your position supervises four professional employees, none of those employees function as supervisors or lead workers. As such, your position is not functioning as a second-level supervisor but instead as the first line of supervision. The Environmental Specialist 3 is the appropriate classification for a first-level supervisor.

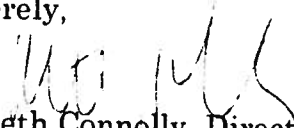
Determination:

By copy of this letter, the Appointing Authority is advised that your position is properly classified as Environmental Specialist 3 (R25, 15854).

The Environmental Specialist 3 title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,


Kenneth Connolly, Director
Classification and Personnel Management

KC/mtb
C: Robin Liebiskind
Joseph Siracusa
CPM #07130222



4/30

CHRIS CHRISTIE
Governor
KIM GUADAGNO
Lt. Governor

STATE OF NEW JERSEY
CIVIL SERVICE COMMISSION
Division of Classification and Personnel Management
P. O. Box 313
Trenton, New Jersey 08625-0313

ROBERT M. CZECH
Chair/Chief Executive Officer

April 8, 2014

Mr. Vincent Garbarino
New Jersey Department of Environmental Protection
Compliance and Enforcement
2 Riverside Drive, Suite 201
Camden, New Jersey 08103

Re: Classification Appeal; Environmental Specialist 3; Position #083522;
CPM #08130193; Employee ID #000344544

Dear Mr. Garbarino:

This is to inform you, and the Department of Environmental Protection, of our determination concerning the classification appeal referenced above.

Your position is currently classified as an Environmental Specialist 3 (R25-15854). You contend that you are performing duties commensurate with the title Environmental Specialist 4 (S28-15855). Your position is located in Compliance and Enforcement, Division of Air and Hazardous Materials Enforcement, Bureau of Air Compliance and Enforcement-Southern. You are supervised by Richelle Wormley, Manager 4, EP (M32-64994C) and you directly supervise two Environmental Specialists 3, and one Environmental Specialist 2.

You are responsible for supervising staff engaged in the inspection of facilities and enforcement of air pollution regulations. In addition, you ensure continuing compliance of a large and complex refinery, process enforcement documents, review inspection reports, and maintain the Air Inspection Targeting database.

Our review involved a detailed analysis of the submitted information, including the Position Classification Questionnaire (DPF-44S); organization chart; your Performance Assessment Review (PAR) form; your statements; and the statements of your supervisor, division director, and appointing authority.

The definition section of the class specification for your current title, Environmental Specialist 3, (R25, 15854), states:

"Under the general supervision of a supervisory official in a state department or agency takes the lead or may supervise, organize and assign technical or scientific work, including field and office studies, surveys, inspections or investigations associated with the enforcement of laws and/or regulations and environmental review and control work, organizes and makes tests and reports to assess Environmental impacts and investigates environmental complaints concerning projects; conducts or supervises the processing of contract, grant and/or loan applications; does related work as required."

An Environmental Specialist 3 provides technical guidance to assigned employees and may evaluate employee performance in ensuring environmental standards are being met. Incumbents in this title gather technical or scientific data to assist in the assessment of social impact. Incumbents evaluate data determining the extent of impacts to ecosystems, and recommend techniques to mitigate those impacts. An Environmental Specialist 3 may plan, organize, and assign the work of the organizational unit and evaluate employee performance and conduct. An Environmental Specialist 3 is considered the primary or first level of supervision and as such, must function as a supervisor or lead worker. A supervisor or lead worker must oversee other permanent professional staff performing environmental assessment work and includes assigning and reviewing work on a regular and recurring basis.

The definition section of the class specification for the title, Environmental Specialist 4 (S28, 15855), states:

"Under direction of a supervisory official in a state department or agency, supervises professional or non-professional staff as assigned, engaged in completion of environmental review and control tasks relative to assigned program/project areas; supervises and plans field studies, surveys, inspections or investigations relating to applications and associated Environmental Impact Statements; enforcement of environmental laws and/or regulations; prepares evidence for use in reviews and legal actions; supervises the processing of contract, grant and/or loan applications; does other related duties as required."

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Name: Vincent Garbarino
Date: April 8, 2014

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An Environmental Specialist 4 is considered a second-level supervisor and is expected to directly supervise professional staff functioning as first-level supervisors. While your position supervises three professional employees, none of those employees function as supervisors or lead workers. As such, your position is not functioning as a second-level supervisor but instead as the first line of supervision. The Environmental Specialist 3 is the appropriate classification for a first-level supervisor.

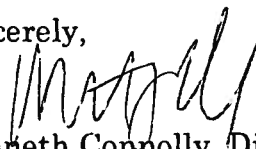
Determination:

By copy of this letter, the Appointing Authority is advised that your position is properly classified as Environmental Specialist 3 (R25, 15854).

The Environmental Specialist 3 title is descriptive of the general nature and scope of the functions that may be performed by the incumbent in this position. However, the examples of work are for illustrative purposes and are not intended to restrict or limit performance of the related tasks not specifically listed.

Please be advised that in accordance with N.J.A.C. 4A:3-3.9, you may appeal this decision within twenty (20) days of receipt of this letter. The appeal should be addressed to the Written Records Appeals Unit, Division of Appeals and Regulatory Affairs, P.O. Box 312, Trenton, New Jersey 08625-0312. Please note that the submission of an appeal must include a copy of the determination being appealed as well as written documentation and/or argument substantiating the portions of the determination being disputed and the basis for the appeal.

Sincerely,



Kenneth Connolly, Director
Classification and Personnel Management

KC/mtb
C: Robin Liebiskind
Joseph Siracusa
CPM #08130193